

From: [Bailey, Kate \(CIV\)](#)
To: [Freedman, John A.; DHo@aclu.org; Federighi, Carol \(CIV\); Coyle, Garrett \(CIV\); Kopplin, Rebecca M. \(CIV\); Halainen, Daniel J. \(CIV\); Tomlinson, Martin M. \(CIV\); Ehrlich, Stephen \(CIV\); Wells, Carlotta \(CIV\)](#)
Cc: [SBrannon@aclu.org; PGrossman@nyclu.org; Colangelo, Matthew; Bauer, Andrew; Gersch, David P.; Grossi, Peter T.; Weiner, David J.; Young, Dylan Scot; Kelly, Caroline; Saini, Ajay; Goldstein, Elena](#)
Subject: State of New York v. Department of Commerce, S.D.N.Y 18-CV-2921, outstanding request for focus group materials
Date: Thursday, September 20, 2018 8:30:42 PM
Attachments: [Census Discovery Prod005_Zip1.zip](#)

Counsel,

We will obtain and provide you dates for Dr. Abowd's third deposition (second deposition in his capacity as a 30(b)(6) witness) as soon as possible. Regarding your request for additional time to depose him on documents other than the white paper, we repeatedly made clear before providing dates for various witnesses (not only Dr. Abowd) that, due to the extremely broad scope of Plaintiffs' document requests, it would not be possible for Defendants to complete production of all documents potentially relevant to these depositions in the timeframe in which Plaintiffs wished to take those depositions. Because of this, we specifically advised that, should the depositions proceed during the timeframe Plaintiffs requested, we would not make witnesses available multiple times simply because Plaintiffs wished to question individuals about documents that later became available. Although we maintain this position, in an effort to avoid further disputes, **we agree to make Dr. Abowd available for an additional two hours total**, and that the scope of that deposition may relate to other documents recently produced, rather than only the white paper itself.

We also have several updates regarding your request for documents related to focus group testing:

- Attached to this email is Part One of Six sets of documents we are producing tonight. Most of these materials were provided to you last week, but now includes Bates stamps. We have located and included two additional emails that were not part of last week's materials.
- Below is a list of focus-group-related materials that were submitted to the DRB for Title XIII review and clearance this Monday, September 17th. Because no DAO has DRB bypass authority for this type of data, the DRB itself will have to clear each document, and they estimate completing this review between Sept 26th – October 1st. We will produce cleared material as promptly as possible.
 - The "audience summaries" listed below each summarize transcripts roughly 1100 pages in length, which would not be producible post-DRB in any useable form. I have been advised that the summaries are an attempt by the DRB and census to release as much data as possible. The Census Bureau has an approved protocol for disclosure avoidance review of summaries of qualitative research produced from activities like focus groups. It does not have, and does not anticipate developing, a protocol for disclosure avoidance review of full transcripts. Full transcripts thus have the same data protection as other micro-data products for which the Census Bureau does not have an approved disclosure avoidance protocol. Review of these summaries will be finished by October 1, if not earlier.
 - Raw data from the focus groups is Title XIII-protected material not subject to release but there is, however, a Public Use Microsample file that is created from the Focus Group Surveys, which will be produced.

- There is a DRB-approved public-use micro-data file from the 2018 CBAMS survey. Census did not anticipate releasing this file for public use prior to the 2020 Census; therefore, there is only limited documentation which has been cleared by the DRB. We are still waiting for a time estimate on this material.
- We have thoroughly searched for, and consider this a complete response to, your request for focus-group testing material. Collection and production of these materials, including DRB disclosure-avoidance review, takes substantial time and must be completed by individuals with significant responsibilities unrelated to this litigation. Specifically, we will not be searching for, or producing, emails relating to this testing, as such material would be overly burdensome and disproportionate with the needs of this case, consistent with our earlier responses and objections to your RFPs.

Materials undergoing review:

1. After Action Reports

- a. T13_2020 CBAMS Focus Group After Action Report - Cayey Spanish Puerto Rico 4-19
- b. T13_2020 CBAMS Focus Group After Action Report - DET BAA [April 12](#) V.20
- c. T13_2020 CBAMS Focus Group After Action Report - DET MENA April 11_v2.0
- d. T13_2020 CBAMS Focus Group After Action Report - Honolulu NHPI [April 9](#)
- e. T13_2020 CBAMS Focus Group After Action Report - LA Chinese [April 3](#)
- f. T13_2020 CBAMS Focus Group After Action Report - LA MENA [April 4](#)
- g. T13_2020 CBAMS Focus Group After Action Report - LA NHPI [April 5](#)
- h. T13_2020 CBAMS Focus Group After Action Report - LA Spanish [April 3](#)
- i. T13_2020 CBAMS Focus Group After Action Report - Montgomery BAA [April 16](#)
- j. T13_2020 CBAMS Focus Group After Action Report - NYC Spanish 3.27.18
- k. T13_2020 CBAMS Focus Group After Action Report - San Juan PR - Spanish - [April 18](#)
- l. T13_2020 CBAMS Focus Group After Action Report - Vietnamese 3.19.18
- m. T13_2020 CBAMS Focus Group After Action Report_ABQ AIAN [March 14](#)
- n. T13_2020 CBAMS Focus Group After Action Report_ABQ Low Internet Proficiency [March 15](#)
- o. T13_2020 CBAMS Focus Group After Action Report_ANC AIAN [March 28](#)
- p. T13_2020 CBAMS Focus Group After Action Report_Bristol_Rural_March 22
- q. T13_2020 CBAMS Focus Group After Action Report_CHI Young Mobile April 10_v2.0
- r. T13_2020 CBAMS Focus Group After Action Report_HOU Spanish [April 3](#)
- s. T13_2020 CBAMS Focus Group After Action Report_HOU Vietnamese [April 4](#)
- t. T13_2020 CBAMS Focus Group After Action Report_MEM Low Internet Proficiency [March 20](#)
- u. T13_2020 CBAMS Focus Group After Action Report_NYC Chinese [March 20](#)
- v. T13_2020 CBAMS Focus Group After Action Report_SD AIAN [March 29](#)

2. Audience Summaries

- a. T13_2020 CBAMS Focus Group Audience Summary – AIAN
- b. T13_2020 CBAMS Focus Group Audience Summary – BAA
- c. T13_2020 CBAMS Focus Group Audience Summary – Chinese
- d. T13_2020 CBAMS Focus Group Audience Summary - Low Internet Proficiency
- e. T13_2020 CBAMS Focus Group Audience Summary – MENA
- f. T13_2020 CBAMS Focus Group Audience Summary – NHPI
- g. T13_2020 CBAMS Focus Group Audience Summary – Rural

- h. T13_2020 CBAMS Focus Group Audience Summary - Spanish PR
- i. T13_2020 CBAMS Focus Group Audience Summary - Spanish US Mainland
- j. T13_2020 CBAMS Focus Group Audience Summary – Vietnamese
- k. T13_2020 CBAMS Focus Group Audience Summary - Young & Mobile

Thank you,

Kate Bailey

Trial Attorney

United States Department of Justice

Civil Division – Federal Programs Branch

20 Massachusetts Avenue, NW

Room 7214

Washington, D.C. 20530

202.514.9239 | kate.bailey@usdoj.gov